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THE WHITE HOUSE
WASHINGTON

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CABINET AFFAIRS STAFFING MEMORANDUM

Date: 1/13/84 Number: 168885CA Due By: _____

Subject: Cabinet Council on Legal Policy - Monday, January 16, 1984

2:00 P.M. - Roosevelt Room

| ALL CABINET MEMBERS | Action | FYI | Action | FYI |
|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Vice President | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| State | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Treasury | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Defense | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Attorney General | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Interior | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Agriculture | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Commerce | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| HUD | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| Energy | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Education | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Counselor | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| OMB | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| UN | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| USTR | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| GSA | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| SBA | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| CEQ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| OSTP | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ACUS | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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| Baker | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Deaver | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Darman (For WH Staffing) | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jenkins | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| McFarlane | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Svahn | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Fielding | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| CCCT/Gunn | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| CCEA/Porter | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| CCFA/ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| CCHR/Simmons | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| CCLP/Uhlmann | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| CCMA/Bledsoe | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| CCNRE/ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

REMARKS: The Cabinet Council on Legal Policy will meet on Monday, January 16, 1984 at 2:00 p.m. in the Roosevelt Room.

The agenda will include the following items:

- Legal Equity for Women
- Immigration Policy
- Crime Legislation
- Bankruptcy Judges

The briefing papers are attached.



RETURN TO:

Craig L. Fuller
Assistant to the President
for Cabinet Affairs

Katherine Anderson
 Tom Gibson

Don Clarey
 Larry Herboldsheimer

Associate Director



Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

January 13, 1984

MEMORANDUM FOR: Members of the Cabinet Council
on Legal Policy

FROM: Edward C. Schmülls
Deputy Attorney General

SUBJECT: CCLP Meeting -- Task Force
on Legal Equity for Women

I. Executive Order 12336

Executive Order 12336 of December 21, 1981, established the Task Force on Legal Equity for Women "to provide for the systematic elimination of regulatory and procedural barriers which have unfairly precluded women from receiving equal treatment from Federal activities." (See Tab 1.) Section One of the Order provides that the President shall appoint the Task Force members from among nominees of the heads of 21 specified executive agencies, each of which is to have one representative on the Task Force.

Section Two of the Order provides that each Task Force member is responsible for coordinating and facilitating in his or her respective agency, under the direction of the head of the agency, the implementation of changes ordered by the President in sex-discriminatory federal regulations, policies, and practices. The Task Force is charged with making "periodic reports" to the President on the progress made in implementing the President's directives.

In addition, Section Two of the Order directs the Attorney General to complete a review of federal laws, regulations, policies, and practices which contain language that unjustifiably differentiates, or effectively discriminates, on the basis of sex. The Attorney General is directed to report his findings to the President on a quarterly basis through the Cabinet Council on Human Resources (this function was subsequently transferred to the CCLP).

The Deputy Attorney General

Washington, D.C. 20530

January 13, 1984

MEMORANDUM FOR: Members of the Cabinet Council
on Legal Policy

FROM: Edward C. Schmults
Deputy Attorney General

SUBJECT: Status of the Administration's
Immigration Reform Legislation

This memorandum sets forth the current status of immigration reform legislation in the 98th Congress.

I. Historical Overview

Following receipt of the Final Report of the Select Commission on Immigration and Refugee Policy in March of 1981, the President established a Cabinet Task Force, chaired by the Attorney General, to study the Commission's recommendations for comprehensive immigration reform. Based on that review the Administration submitted a legislative package of immigration reform proposals to the Congress in October of 1981 which embodied the most important recommendations of the Select Commission.

The principal provisions of the Administration bill were (1) penalties on employers who knowingly hire illegal aliens, (2) legal status for illegal aliens who were in the U.S. before January 1, 1980, (3) an expanded temporary foreign worker program where domestic workers are unavailable, (4) reform of our procedures to return persons who enter the U.S. illegally, (5) expanded legal authorities to deal with mass arrivals of undocumented aliens, and (6) increased legal immigrant admissions for Canada and Mexico.

After extensive hearings on the Administration bill, Senator Simpson and Congressman Mazzoli, the Chairmen of the Senate and House Immigration Subcommittees, respectively, in March of 1982 introduced their own immigration reform legislation which incorporated most of the Administration's proposals. The most significant exception to that incorporation was the deletion of the Administration's mass immigration emergency plan. At the Cabinet Council meeting on April 16, 1982, it was decided that the Simpson-Mazzoli bill would become the Administration's vehicle for immigration reform.



The Deputy Attorney General

Washington, D.C. 20530

January 13, 1984

MEMORANDUM FOR: Members of the Cabinet Council
on Legal Policy

FROM: Edward C. Schmults
Deputy Attorney General

SUBJECT: Status of the Administration's Anti-
Crime Legislation

Enactment of the President's Comprehensive Crime Control Act is most important. Enactment of its provisions will greatly increase the effectiveness of the unprecedented advances we have made through our various law enforcement initiatives over the last three years. Securing Congressional approval of meaningful criminal justice reforms this year is still possible but prompt action is required. We must seize the opportunity. It is particularly important that the Senate pass the legislation early this spring, so that we may concentrate our efforts on the House.

I. Senate

In the Senate, the President's 42-point Comprehensive Crime Control Act of 1983 (submitted to the Congress on March 16, 1983) was favorably reported by the Senate Committee on the Judiciary in July of 1983. Attached is a capsule summary of the President's anti-crime package as it emerged from the Senate Judiciary Committee.

The President's 42-item "package" has been reported as four new bills, in order to implement an agreement reached among Chairman Thurmond and Senators Laxalt, Biden, and Kennedy. In summary, the four Senators agreed to co-sponsor a "core" package (S. 1762) which includes all of the provisions of the President's bill except for habeas corpus reform, exclusionary rule reform, the death penalty, and Tort Claims Act amendments. They also agreed to stand together against all efforts to amend the "core" bill. The Committee reported separate bills on habeas, exclusionary rule, and death penalty. The Tort Claims Act amendments were reported subject to unanimous concurrence on its final language between Senators Biden and Grassley and the Department of Justice. To date agreement has not been achieved. The agreement between the four Senators also includes a pact to stand in opposition to any filibuster or other delaying device which



Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

January 13, 1984

MEMORANDUM FOR: Members of the Cabinet Council
on Legal Policy

FROM: Edward C. Schmults
Deputy Attorney General

SUBJECT: Status of Bankruptcy Courts Legislation

The Nation's bankruptcy court system faces a complicated and threatening crisis on April 1 of this year. At that time, the transition period in the Bankruptcy Reform Act of 1978 (the "Reform Act") will end. The new court system created by the Reform Act is then scheduled to come into existence, but the Supreme Court has declared much of the new courts' jurisdiction unconstitutional, and Congress never fully implemented the Reform Act by creating any judicial positions. As a result, it is very unclear where jurisdiction over the heavy bankruptcy caseload will lie on April 1 and who will be available to handle it. Although the urgent needs of bankrupt parties, their creditors and their employees make congressional action imperative, a deadlock in Congress has prevented it from occurring.

I. BACKGROUND

A. The Bankruptcy Reform Act of 1978

The pending crisis faced by the bankruptcy court system is a result of Congress' failure to address some significant constitutional questions when it enacted the Reform Act. The Reform Act granted the bankruptcy courts broad jurisdiction over all matters related to bankruptcy cases in order to eliminate jurisdictional litigation and consolidate all actions and motions into one case before the same judge. However, because the Senate refused to agree to the over 200 life-tenured bankruptcy judgeships proposed by the House, the Reform Act provided that the bankruptcy courts would be staffed with judges appointed for fourteen-year terms. Congress realized there was considerable doubt whether these limited-tenured judges could exercise the broad jurisdiction granted them without offending Article III of the Constitution, which requires that the "judicial Power of the United States" be exercised only by judges with life tenure and protection against diminution of salary. For this reason, the Reform Act denominated the new bankruptcy courts as "adjuncts" to the district courts, although by any objective standard they were independent entities.